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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,670	03/16/2004	Paul Vincent	Q80358	3012
23373	7590	07/28/2008	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			NALVEN, ANDREW L	
ART UNIT	PAPER NUMBER		2134	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,670	<b>Applicant(s)</b> VINCENT ET AL.
	<b>Examiner</b> ANDREW L. NALVEN	<b>Art Unit</b> 2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 5/29/2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/146/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. Claims 1-12 are pending. Claims 6-12 are withdrawn from consideration.

***Response to Arguments***

2. Applicant has argued that Kuzma fails to teach verification between the stamp provider and the MMS center. Examiner notes that the claims as currently presented only require the MMS center to verify the stamp. The claims do not require verification between a stamp provider and the MMS center. Kuzma teaches an electronic stamp whose validity is verified by said multimedia message service center wherein said electronic stamp is an element associated with paying for sending the message and includes a value of the stamp (Kuzma, column 4 lines 35-45, stamp is placed on message with an appropriate value, column 5 lines 57-65, post office checks validity of stamp) by teaching a multimedia message center in the form of an electronic post office verifying the payment stamp.
3. Applicant's remaining arguments filed 16 November 2007 have been fully considered but they are moot in view of the new grounds of rejection.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter because the cited claims fail to fall into one of the four statutory classes of invention. The cited claims can be interpreted as purely software per se and thus the cited claims fail to fall into the statutory class of an article of manufacture.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-5 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Kuzma US Patent No. 5,771,289 in view of Mobile Tech News "Logica first to enable MMS intercarrier messaging." (hereafter MTN)

6. **With regards to claim 1,** Kuzma teaches a multimedia message service consisting in sending a message in a multimedia message service environment (Kuzma, column 2 lines 26-30) comprising a multimedia message service center (Kuzma, column 2 lines 40-52), wherein a sent multimedia messaging service message includes an electronic stamp whose validity is verified by said multimedia message service center wherein said electronic stamp is an element associated with paying for

sending the message and includes a value of the stamp (Kuzma, column 4 lines 35-45, stamp is placed on message with an appropriate value, column 5 lines 57-65, post office checks validity of stamp). Kuzma fails to teach the multimedia messaging service being a mobile Multimedia Messaging Service Center. However, MTN teaches the use of Multimedia Messaging Service messages in a Multimedia Messaging Service environment using a Multimedia Messaging Service Center (MTN, MMS Center). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize MTN's MMS environment and center design with Kuzma's payment system for messaging because it offers the advantage of allowing the sending of messages between users of different networks and increase revenue for mobile operators (MTN, pages 1-2).

7. **With regards to claim 2,** Kuzma as modified teaches a header containing parameters relating to the transportation and the content of said message and a body containing elements of said message (Kuzma column 4 lines 5-20, electronic mail messages include a header with addressee information and a message body) and one parameter in said header is a field corresponding to the stamping of the message (Kuzma, column 5 lines 48-57, affixed to header).

8. **With regards to claim 3,** Kuzma as modified teaches the value associated with said stamping field in said header is an encrypted numerical value (Kuzma, column 5 lines 35-40, encoded electronic stamp).

9. **With regards to claim 4**, Kuzma as modified teaches the value associated with said stamping field in said header is a binary value indicating the presence of said electronic stamp in said message body (Kuzma, column 5 lines 47-57).
10. **With regards to claim 5**, Kuzma as modified teaches a body part of said message body contains said electronic stamp in the form of an encrypted numerical value (Kuzma, column 4 lines 35-45, stamp is placed on message with an appropriate value).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW L. NALVEN whose telephone number is (571)272-3839. The examiner can normally be reached on Monday - Thursday 8-6, Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571 272 3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2134

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew L Nalven/  
Primary Examiner, Art Unit 2134